

Development Trends in Trademark Law

Abstract

This thesis deals with the development trends in trademark law in terms of the development of the subject matter of trademark law, i.e. trademarks. In particular, it seeks to answer three questions. Firstly, what are the trends of the development of trademark law from the point of view of the subject matter of trademark law. Secondly, whether the abolition of the requirement of graphic representation has the effect on the development of trademarks as intended by Directive (EU) 2015/2436 of the European Parliament and of the Council. And thirdly, what development of the subject matter of trademark law can be expected in the future. This thesis tries to answer these questions with the help of legal regulations, professional literature, methodological guidelines and decision-making practice of courts and competent authorities.

The thesis is divided into six chapters, which are then divided into subchapters. The first chapter theoretically deals with the trademark as such. It focuses mainly on the position of trademark law within the framework of intellectual property law, important trademark principles and the functions of a trademark. The first chapter ends with an analysis of the relationship between trademark law and the law against unfair competition.

The second chapter first deals with the understanding of the subject matter of trademark law in the Czech lands from 1858 to the present. The chapter outlines the development trends in trademark law in the historical development. The chapter also seeks to outline the terms traditional and non-traditional trademark. The chapter is concluded with an analysis of the issue of graphic representation which is of great importance in terms of trademark development.

The third to fifth chapter deal with individual types of trademarks. The thesis divides trademarks into three groups, namely traditional, visual non-traditional and non-visual non-traditional trademarks. Each type of trademark is generally discussed and for some of them examples from decision-making practice are also discussed. Explanation of specific types of trademarks ends with an analysis of their development after the removal of the requirement of graphic representation.

The last chapter deals with the possible future development of the subject matter of trademark law. It deals with contribution of modern technologies to this field. In this context the change of the way in which the law requires sound marks to be expressed in the register of trademarks is proposed. Finally, the chapter deals with the compatibility of national proceedings and international proceeding within the World Intellectual Property Organization.